

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7243

BILL NUMBER: SB 403

DATE PREPARED: Jan 29, 2002

BILL AMENDED: Jan 29, 2002

SUBJECT: Registration and Voting.

FISCAL ANALYST: Chris Baker

PHONE NUMBER: 232-9851

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) Provides that certain voters may cast a provisional ballot.

(B) Permits a county election board to eliminate certain precinct election offices under certain circumstances.

(C) Permits individuals who are between 16 and 18 years of age to serve as poll clerks and election sheriffs under certain circumstances.

(D) Provides that any voter may vote by absentee ballot in the office of the circuit court clerk. Provides for submission of absentee votes by fax transmission by certain voters under certain circumstances. Makes other changes relating to casting absentee ballots.

(E) Provides that a county election board may establish the number of voters a precinct may contain that permits the precinct to have its polls located at the same location as another precinct.

(F) Requires the Attorney General to establish a toll-free telephone number to receive complaints regarding violations of Indiana election law.

(G) Adds the investigative powers of a prosecuting attorney, including the power to issue subpoenas and civil investigative demands, to the Attorney General's powers to investigate complaints of violations of Indiana election law. The bill also authorizes the Election Commission to reimburse the Attorney General for the full cost of investigations of complaints of violations of Indiana election law.

(H) Provides for late registration of absent uniformed services voters under certain circumstances. It also

eliminates the requirement that a discharge be "honorable" in order for a returning uniformed services voter to register and vote after the voter registration period ends. The bill also requires the county election board to send confirmation to all absent uniformed services voters that the voter's absentee ballot was received.

(I) Repeals superseded statutes relating to: (1) registration of absent uniformed services voters and overseas voters; and (2) counting absentee ballots at a central location.

Effective Date: July 1, 2002; January 1, 2003.

Explanation of State Expenditures: (Revised) (A) This section of the bill would require the Election Division to print and ship provisional ballots for state offices and the President of the United States (in Presidential election years) to county circuit court clerks or the director of the board of elections in registrations (for certain counties). This provision would have an impact. However, the Election Division is already required to print ballots for certain general elections under current law. There will be some additional expenditures to the Election Division to provide provisional ballots to counties. As more counties adopt electronic voting systems that do not require paper ballots, the impact of this provision would subside. Currently, unused funding for printing of ballots by the Division is reverted to the state General Fund. The Election Division printed approximately 250,000 ballots at \$0.25 per ballot for the 2000 general election (250,000 X \$0.25 = \$62,500). The Election Division would be required to send the provisional ballots by certified mail. Rates for certified mail are as follows: \$2.10 for certification and \$0.34 for first class postage. If mail weighs more than an ounce, \$0.23 is charged per each additional ounce.

As of January 2, 2002, the Election Division had 13 full-time positions, one vacant (full-time), and one intermittent position.

Penalty Provision: Under the bill, a provisional ballot counter that knowingly causes a vote to be incorrectly taken down for a candidate or public question or makes a false statement, certificate, or return of any sort for that vote commits a Class D felony. Additionally, if a provisional ballot counter knowingly opens or marks a ballot (unless allowable by law) or attempts to know the vote of the voter before a ballot is put in a ballot box, or cast on a voting machine, electronic voting system, or ballot card voting system, the provisional ballot counter commits a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

(F) The bill requires the Attorney General to have a toll-free telephone number to receive complaints from individuals regarding violations of election law. The Attorney General (AG) currently has several toll-free numbers in use for contacting the AG on various topics. Based on advertisements providing toll-free service, prices can range from \$0.04 per minute to \$0.098 per minute for use of a toll-free number. In addition some firms may charge a one-time start-up fee of \$10 to \$95. A dollar-per-month service charge may be assessed, depending on the retailer. The AG estimates the cost to implement the toll-free number and maintain staff to administrate the toll-free number is between \$5,000 and \$20,000.

The AG would also be required to investigate any complaints on election law received. Depending on the number of complaints filed, it is believed the AG would be able to absorb the administrative costs of this proposal. As of January 2, 2001, the AG had 275 employed positions. Of these positions, 246 were full-time, 5 part-time, 7 on leave, 14 intermittent, and 3 were temporary.

(G) The Attorney General would be given additional investigative powers with respect to election fraud. Under the bill, the Election Commission would be required to reimburse in full the investigative costs (including the cost of any special Deputy Attorney General and payroll expenses) incurred by the Attorney General.

The provision would have an indeterminate fiscal impact to the Election Commission.

Explanation of State Revenues: (A) *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

(G) If more cases are prosecuted by county prosecutors as the result of additional investigations conducted by the Attorney General's office, revenue collected from court fees may increase as described under (A).

Explanation of Local Expenditures: (A) The circuit court clerk will be required to estimate the number of provisional ballots required to vote in the county. Each provisional ballot must be signed by the circuit court clerk or their designate. The impact is unknown and will vary by county.

The bill would also allow the county election board to contract with a state university or college to dispose of the ballots for the purpose of election research.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

(B) This provision could provide a savings to counties if precinct sheriffs and/or poll clerks are eliminated. An ordinance must be adopted by the county election board for all or certain specified precincts in the county to eliminate sheriffs and poll clerks. The specific impact of this provision is indeterminable and depends on local action.

Background: Under current law, precinct election officers are appointed by the county election board, except in Lake and Tiptecanoe County where the officers are appointed by a combination of an election board and registration board. For all elections except certain municipal elections, the county executive fixes a per diem allowance to the following precinct election officers:

Type of Officer	Number
Inspector	1
Judge	2
Poll Clerk	2
Sheriff	2
Asst. Poll Clerk	2 (Optional)

The county executive is also allowed under current law to set a meal allowance (if an ordinance allowing a meal allowance has been adopted by the county) for the above listed precinct election officers on election day. In addition, an inspector can receive additional compensation for the duties of acquisition and return of election supplies to the circuit court clerk's office. For municipal elections in towns with a population of less than 3,500 with the municipality located outside of Marion County, the town fiscal body fixes compensation. As of the 2000 general election, 5,530 precincts officially existed in Indiana.

(C) No fiscal impact.

(D) & (H) This provision would save certain mailing costs to circuit court clerks and county election boards by faxing either general election or special election absentee ballots. With respect to absent uniformed services voters or overseas voters, sending a fax of an absentee ballot could significantly reduce the transaction cost of the ballot for election boards.

Absentee ballot forms may need to be revised in order to reflect these changes and to provide proof of residency and qualification to vote.

Precinct election officers could have minimal increase in duties to compare signatures and process voter certification and affidavits at the polls. Additionally, county election boards may require more administrative time to certify transmitted affidavit signatures.

(E) The impact of this provision would depend on local action. If more precincts were allowed to combine, by ordinance, several expenditure savings could occur. Fewer precinct election officers would be required which would reduce the amount of per diem paid by the county to precinct election officers. Combining precincts could allow better efficiency with respect to voting equipment, as a county may not require as many voting machines, which could reduce the cost for new purchases of machines and/or the printing of ballots.

(H) This provision would require additional administrative time to the circuit court clerk's responsibilities. Additional expenditures may be necessary to cover the cost of mailing an affidavit to the board of registration.

The county election board would be required to send confirmation that an absentee uniformed services ballot has been received either by fax or electronic mail. However, if neither a fax number or electronic mail address is provided, the board would have to send confirmation by United States mail.

Explanation of Local Revenues: (A) *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county

general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

(G) If more cases are presented to county prosecutors by the Attorney General's office, revenue collected from court fees may increase as listed under **(A)**.

State Agencies Affected: Indiana Election Division; Office of the Attorney General; Department of Correction.

Local Agencies Affected: Counties, towns, precincts; Trial courts, local law enforcement agencies.

Information Sources: Laurie Christie & Spencer Valentine, Co-Directors, Kristi Robertson, Lori Hershberger, Indiana Elections Division, Office of Secretary of State, (317) 232-3939; State of Indiana, *HRM Detail Staffing Report Position and Employee Totals, 1/02/2002*; United States Postal Service; Indiana Sheriffs Association; Department of Correction.